

1 Melvin C. Belli SBN 111309  
2 Robert J.A. Fordiani SBN 256041  
The Belli Law Firm  
3 35 Miller Avenue Suite 199  
Mill Valley, CA 94941  
4 Tel (415) 981-1850  
Fax (415) 981-8314  
rjaf@thebellilawfirm.com  
5 mcb@thebellilawfirm.com

6 Attorneys for Plaintiffs  
JULIA Z. CASTRO MARIN RAMIREZ  
7 & TED RAMIREZ

8 UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 SAN FRANCISCO DIVISION

11 JULIA Z. CASTRO MARIN RAMIREZ  
& TED RAMIREZ

CASE No.

12 Plaintiff,

**COMPLAINT FOR DAMAGES  
PERSONAL INJURY  
PURSUANT TO  
28 U.S.C. §1346(b)(1) and 39 U.S.C. §409**

13 vs.

14 THE UNITED STATES OF AMERICA

15 Defendants.

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16 COMPLAINT FOR DAMAGES

17 Plaintiffs JULIA Z. CASTRO MARIN RAMIREZ AND TED RAMIREZ,  
18 for their complaint against Defendant THE UNITED STATES OF AMERICA allege as  
19 follows:

20 INTRODUCTION

21 1. This civil action seeks compensatory damages from Defendant UNITED  
22 STATES OF AMERICA for vehicular negligence, bystander emotional distress, and loss of  
23 consortium as a result of a traffic collision that occurred on March 2, 2016, caused by a United  
24 States Postal Service employee in the course, and scope of his employment.

25 PARTIES

26 2. At all times mentioned herein Plaintiffs JULIA Z. CASTRO MARIN RAMIREZ  
27 (hereinafter JULIA RAMIREZ) and TED RAMIREZ were and are husband and wife, and are

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1 ||residents of San Francisco California.

2       3. At all times mentioned herein, Chi To Cheng (herein after CHENG) was an  
3 employee of USPS, and in doing the acts herein described, acted within the course and scope of  
4 his employment.

5           4. At all relevant times, UNITED STATES POSTAL SERVICE  
6 (hereinafter USPS) was and is a governmental agency of the Defendant UNITED STATES OF  
7 AMERICA. The Federal Tort Claims Act provides that the UNITED STATES OF AMERICA is  
8 the sole party which may be sued for personal injuries arising out of the negligence of its  
9 employees, and individual agencies. Therefore Defendant UNITED STATES OF AMERICA by  
10 statutory authority is the sole and proper defendant in this action as neither the UNITED  
11 STATES POSTAL SERVICE NOR its employee, CHENG, can be sued pursuant to  
12 both 28 U.S.C. § 1346(b), § 2679(a).

13       5. At all times mentioned herein, Defendant, UNITED STATES OF AMERICA was  
14 the owner of a certain 2001 Gruman U.S. Postal truck, California license plate number 1510694.

## JURISDICTION AND VENUE

16       6.     This Court has jurisdiction in this matter pursuant to 28 U.S.C. 1334(b)(1), and 39  
17 U.S.C. 409 as this case involves a claim for money damages due to personal injuries caused by the  
18 negligence of an employee of the USPS acting within the course and scope of his employment at the  
19 time of the collision herein alleged.

20       7. Plaintiffs have exhausted their administrative remedies with the USPS by filing  
21 claims for injury with the USPS which was personally served on the office of the Chief Counsel,  
22 Torts at the USPS National Service Center in St Louis, Missouri on March 1, 2018. The USPS  
23 denied this claim on December 10, 2019.

24 8. Venue is proper in this Court pursuant to the provisions of 28 USC § 1391(b)(2)  
25 because the collision that gives rise to this complaint occurred in San Francisco, California, and  
26 Plaintiffs also reside here.

27 //

28 //

## FIRST CAUSE OF ACTION

**FOR DAMAGES FOR PERSONAL INJURIES AGAINST THE UNITED STATES OF  
AMERICA AS A RESULT OF THE NEGLIGENT ACTS OF THEIR EMPLOYEE  
WHILE HE WAS WITHIN SCOPE OF HIS EMPLOYMENT BY PLAINTIFF JULIA  
RAMIREZ**

9. Plaintiff JULIA RAMIREZ repeats and re-alleges the preceding paragraphs as though fully set forth herein.

10. At all times mentioned in this Complaint, Mission and 23<sup>rd</sup> streets are public streets and/or highways in the City and County of San Francisco California.

11. On or about March 2, 2016, Plaintiff JULIA was driving her car westbound on 23<sup>rd</sup> Street in San Francisco, CA. As she approached the intersection with Mission street she began to turn north on to Mission, but she noticed some pedestrians starting to cross the street. She stopped to yield to these pedestrians crossing Mission Street in the marked cross walk. As she was stopped CHENG driving a USPS truck California license plate number 1510694 ran into the back of her car sharply jolting her. Even after he hit her car, he continued to accelerate into her pushing her towards the pedestrians in the cross walk. Plaintiff JULIA RAMIREZ jammed her foot on the brake, but it seemed to no avail. She was terrified as she thought she was going to be pushed into the pedestrians, and run them over. Fortunately CHENG backed off the gas before she hit the pedestrians in the cross walk.

12. All operators of motor vehicles have a duty to exercise reasonable care, and skill in the operation of their vehicles. The duty of care includes operating a vehicle in a safe and prudent manner, heeding all traffic ordinances, paying attention to the traffic in front of them not going too fast for the current conditions, and certainly not running into the back of another car.

13. On the date and at the time and place above, CHENG, the Defendant UNITED STATES OF AMERICA's employee, failed to operate his vehicle in a safe, prudent and reasonable manner and as a result of his failure struck the rear of Plaintiff JULIA RAMIREZ's car.

14. As a proximate and direct result of negligence, and carelessness of Defendant's employee, CHENG, and the resulting collision with , Plaintiff JULIA RAMIREZ's car, she was

1       injured in her health, strength and activity, and sustained injuries to her body and nervous system  
2       and person, and sustained personal injuries all of which have caused and continue to cause Plaintiff  
3       great mental, physical and nervous pain and suffering, including but not limited to Post Traumatic  
4       Stress Disorder. These injuries may result in permanent disabilities to Plaintiff JULIA RAMIREZ  
5       all to Plaintiff JULIA RAMIREZ's general damage.

6        15. As a direct and proximal result of the negligence of Defendant UNITED STATES  
7 OF AMERICA's employee CHENG, Plaintiff JULIA RAMIREZ necessarily employed physicians,  
8 and other heath providers for medical examination, treatment and care of these injuries, and incurred  
9 medical and incidental expenses and may have to incur additional like expenses in the future, all in  
10 amounts presently unknown to them. Plaintiff therefore requests leave of Court to prove those  
11 amounts at trial.

12        16. As a further a direct and proximal result of the negligence of Defendant  
13        UNITED STATES OF AMERICA's employee CHENG, Plaintiff JULIA RAMIREZ necessarily  
14        lost time from work at her job at Mollie Stone's market in San Francisco due to her injuries for this  
15        crash , and therefore lost wages in an amount to be proven at trial.

## SECOND CAUSE OF ACTION

17 FOR DAMAGES FOR BYSTANDER EMOTIONAL DISTRESS UNDER DILLON VS LEGG  
18 FOR PLAINTIFF TED RAMIREZ.

19       17. Plaintiff TED RAMIREZ repeats and re-alleges each and every allegation in  
20 paragraphs 1 through 16 of this Complaint with the same force and effect as if fully set forth  
21 herein.

22       18. Plaintiff TED RAMIREZ had just gotten out of Plaintiff JULIA RAMIREZ's car  
23 and walked across the street from his wife /plaintiff JULIA RAMIREZ at the time of the collision  
24 as set forth above. Plaintiff TED RAMIREZ and plaintiff JULIA RAMIREZ had been married  
25 over twenty years. As he was in close proximate to the vehicles when they collided he  
26 contemporaneously experienced CHENG crash into the back of his wife's car. Plaintiff TED  
27 RAMIREZ heard the crash, turned, and saw Defendant's postal truck embedded into to rear of  
28 his wife's car which was still moving. He heard her screams, and sobbing, and he immediately

1 ran over to her aid.

2       19. As a result of the negligence as set forth above of defendant UNITED STATES  
3 OF AMERICA's employee CHENG, Plaintiff TED RAMIREZ suffered serious emotional  
4 distress, INCLUDING suffering, anguish, fright, horror, grief, anxiety, worry, and shock as he  
5 contemporaneously experienced this crash knowing his wife was involved.

6                     THIRD CAUSE OF ACTION PLAINTIFF TED RAMIREZ'S LOSS OF  
7 CONSORTIUM DUE TO DEFENDANT'S NEGLIGENCE IN INJURING HIS WIFE.

8       20. Plaintiff repeats and re-alleges the preceding paragraphs as though fully set forth  
9 herein.

10      21. Plaintiff TED RAMIREZ has suffered the loss of his wife's companionship and  
11 services, including, but not limited to the loss of love, companionship, comfort, care, assistance,  
12 protection, affection, society, and moral support; and the loss of the enjoyment of sexual relations  
13 as a direct and proximal result of the injuries caused to his wife by the negligent conduct of  
14 Defendant's employee CHENG as previously alleged.

15                     PRAYER FOR RELIEF

16       WHEREFORE, Plaintiffs requests entry of judgment in their favor and against  
17 Defendant UNITED STATES OF AMERICA ,

18      1. For the First Cause of action; and for general and special damages, lost wages and  
19 medical expenses for plaintiff JULIA RAMIREZ in an amount to be proven at trial.

20      2. Forth the Second and Third cause of action for compensatory damages in an  
21 amount to be proven at trial for Plaintiff TED RAMIREZ.

22      3. For reasonable costs of this suit and attorneys' fees; and

23      4. For such further other relief as the Court may deem just, proper, and appropriate

24 Dated June 8, 2020

The Belli Law Firm

25 BY

MELVIN C. BELLI

26 Attorney for Plaintiff JULIA Z. CASTRO MARIN  
27 RAMIREZ & TED RAMIREZ